



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DARRELL KING,

Plaintiff,

v.

CITY OF BEACON POLICE DEPARTMENT;
and CITY OF BEACON

Defendant.
-----X

ORDER

20 CV 5815 (VB)

On September 11, 2020, defendants moved to dismiss the complaint. (Doc. #1-2).

Accordingly, it is hereby ORDERED that, by no later than September 21, 2020, plaintiff must notify the Court by letter whether he (i) intends to file an amended complaint in response to the motion to dismiss, or (ii) will rely on the complaint that is the subject of the motion to dismiss.

Because plaintiff's counsel has not yet appeared in this removed action, she will not automatically receive notification of this Order. Therefore, by September 16, 2020, defense counsel shall: (i) serve a copy of this Order on plaintiff's counsel; and (ii) file proof of service of same. In addition, by no later than September 21, 2020, plaintiff's counsel shall file a notice of appearance in this action.

If plaintiff elects not to file an amended complaint, the motion will proceed in the regular course, and the Court is unlikely to grant plaintiff a further opportunity to amend to address the purported deficiencies made apparent by the fully briefed arguments in defendant's motion. See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC, 797 F.3d 160, 190 (2d Cir. 2015) (leaving "unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility"); accord F5 Capital v. Pappas, 856 F.3d 61, 89–90 (2d Cir. 2017). The time to file opposing and reply papers shall be governed by the Federal Rules of Civil Procedure and the Local Civil Rules, unless otherwise ordered by the Court.

If plaintiff elects to file an amended complaint, he must file the amended complaint by no later than 14 days after notifying the Court of his intent to do so. Within 21 days of such amendment, defendant may either: (i) file an answer to the amended complaint; or (ii) file a motion to dismiss the amended complaint; or (iii) notify the Court by letter that it is relying on the initially filed motion to dismiss.

Dated: September 15, 2020
White Plains, NY

SO ORDERED:

Vincent L. Briccetti, U.S.D.J.